

JS 44 (Rev. 06/17)

## CIVIL COVER SHEET

19-cv-985

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Abraham Diaz and Carmen Diaz, parents and natural guardians of Nicholas Diaz, an incapacitated person

(b) County of Residence of First Listed Plaintiff Queens, NY  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Michael D. Shaffer, Esquire  
Shaffer & Gaier, LLC  
1628 JFK Blvd., Ste 400  
Philadelphia, Pa 19103 215-751-0100

## DEFENDANTS

Woods Services

County of Residence of First Listed Defendant Bucks, Pa  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |   |                            |
|---|---------------------------------------|---|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for Nature of Suit Code Descriptions.

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input checked="" type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claim Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. §1332

Brief description of cause:  
Diversity of Citizenship

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

3-1-19

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

MAR - 8 2019

# INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows.

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U S plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U S plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**19 985**

**DESIGNATION FORM**

*(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)*

Address of Plaintiff: 9341 222<sup>ND</sup> ST. APT. 2D QUEENS VILLAGE, NY 11428  
 Address of Defendant: 40 MARTIN GROSS DR. LANICHOKE, PA 19047  
 Place of Accident, Incident or Transaction: 40 MARTIN GROSS DR. LANICHOKE, PA 19047

**RELATED CASE, IF ANY:**

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |   |   |                              |                             |
|---|---|------------------------------|-----------------------------|
| 1 | Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2 | Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3 | Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4 | Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE 3/8/19 [Signature] 60191  
 Attorney-at-Law / Pro Se Plaintiff Attorney I D # (if applicable)

**CIVIL: (Place a ✓ in one category only)**

**A. Federal Question Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FEIA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases  
(Please specify) \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☒ 3. Assault, Defamation
- ☒ 4. Marine Personal Injury
- ☒ 5. Motor Vehicle Personal Injury
- ☒ 6. Other Personal Injury (Please specify) NEGLIGENCE
- ☒ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases  
(Please specify) \_\_\_\_\_

**ARBITRATION CERTIFICATION**

*(The effect of this certification is to remove the case from eligibility for arbitration.)*

I, MICHAEL SHAFFER, counsel of record or pro se plaintiff, do hereby certify

- ☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs
- ☐ Relief other than monetary damages is sought

DATE 3/8/19 [Signature] 60191  
 Attorney-at-Law / Pro Se Plaintiff Attorney I D # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F R C P 38

**MAR - 8 2019**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

ABRAHAM DIAZ, ET AL

v.

WOODS SERVICES

CIVIL ACTION

**19 985**

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus - Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos - Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management - Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)
- (f) Standard Management - Cases that do not fall into any one of the other tracks. ( )

3/8/19  
Date

MICHAEL SHAFFER, ESQ.  
Attorney-at-law

ABRAHAM + CARMEN DIAZ  
Attorney for

215-751-0100

Telephone

\_\_\_\_\_

FAX Number

MSHAFFER@SHAFFERGAIER.COM

E-Mail Address

(Civ. 660) 10/02

MAR - 8 2019

MAR - 8 2019

MAR - 8 2019

#400

JD

SHAFFER & GAIER, LLC  
 BY: Michael D. Shaffer, Esquire  
 Michael H. Gaier, Esquire  
 Identification No. 60191/50210  
 8 Penn Center  
 1628 JFK Boulevard - Suite 400  
 Philadelphia, PA 19103  
 (215)751-0100

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ABRAHAM DIAZ and CARMEN DIAZ, :		
parents and natural guardians of :	CIVIL ACTION	
NICHOLAS DIAZ, an incapacitated :		
person :		19 985
9341 222 <sup>nd</sup> Street, Apt. 2D :		
Queens Village, NY 11428 :		
Plaintiffs, :		
vs. :		
	NO.	
WOODS SERVICES :		
40 Martin Gross Drive :		
Langhorne, Pa 19047 :		

COMPLAINT

Plaintiffs, Abraham Diaz and Carmen Diaz, parents and natural guardians of Nicholas Diaz, an incapacitated person, by and through their attorneys, Michael D. Shaffer, Esquire and Michael H. Gaier, Esquire, of Shaffer & Gaier, LLC, alleges as follows:

PARTIES

1. Plaintiffs, Abraham Diaz and Carmen Diaz, are parents and natural guardians, and are adult citizens and residents of the State of New York, residing at the above address.
2. Nicholas Diaz ("Nicholas") an incapacitated person, is a citizen and resident of the State of New York, residing at the above address.

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3. Defendant, Woods Services (“Woods”), is a private residential facility located at 40 Martin Gross Drive, Langhorne, Pa 19047.

4. Woods is a 501(c)(3) non-profit multi-service population health management and advocacy organization that provides health, education, housing, workforce, behavioral health and case management services to more than 4,000 children and adults in the intellectual and developmental disability, child welfare, behavioral and brain trauma public health sectors.

5. Woods is in the business of providing support services for individuals with developmental and intellectual disabilities.

6. At all times material hereto, the Defendant acted by and through their agents, servants, workmen and/or employees.

#### **JURISDICTION AND VENUE**

7. Jurisdiction is proper in this District pursuant to 28 U.S.C. §1332 as there is diversity of citizenship and the amount in controversy exceeds the jurisdictional limits.

8. Venue is proper in this District pursuant to 28 U.S.C. §1391 (b)(1) because Defendant resides and/or transacts business in this District.

9. Venue is proper in this District pursuant to 28 U.S.C. §1391 (b)(2) because the events or omissions giving rise to the claim occurred in this District.

#### **MATERIAL FACTS**

10. Although Nicholas is 21 years old, he is an incapacitated person with a significant psychological history. More specifically, he has been diagnosed with the following: Autistic Disorder and Seizure Disorder. He is non-verbal and has severe cognitive limitation.

11. Despite its proclamations that it provides quality and competent care to its residents, Woods has a well-documented history of abuse and neglect of its residents.

12. In fact, Woods has a culture of abuse and neglect which goes unreported and unaddressed because Woods promotes a culture and environment that discourages reporting abuses by its employees.

13. Prior to his admission to Woods Services, Nicholas had a significant history of psychiatric, mental and cognitive disorders as noted above.

14. Woods Services advertised and promoted itself as being able to handle and treat persons such as Nicholas who have this type of condition and diagnosis.

15. Woods Services accepts insurance compensation and benefits for services it provides and therefore has a pecuniary interest in servicing clients such as Nicholas Diaz.

16. On or about October 21-22, 2017, Nicholas was a resident at Woods.

17. On or about October 21-22, 2017, Nicholas was improperly restrained by a staff member sustaining various injuries to his face and arms. More specifically, Nicholas was having a behavioral episode and the agents/employees of Defendant pushed his face into the ground and improperly restrained him causing him to sustain various serious and significant physical injuries.

18. On or about June 23, 2018, Nicholas was still a resident at Woods.

19. On or about June 23, 2018, Nicholas was improperly restrained by a staff member and suffered several injuries, including injuries to his face, neck and arms. More specifically, Nicholas was having a behavioral episode after being denied a snack. Nicholas was then struck in the face and improperly restrained, sustaining serious and significant injuries.

20. Since these incidents, and because of the aforesaid incidents, Nicholas has suffered post-traumatic stress disorder and has become increasingly agitated and violent and suffers from other emotional stress.

21. Nicholas has developed serious trust issues and is afraid of any mental health worker because he fears for his safety due to these incidents

22. At all times material hereto, Defendant acted by and through its agents, employees and servants.

**COUNT I  
ASSAULT AND BATTERY**

23. Plaintiff incorporates the prior paragraphs as if set forth in full herein.

24. Woods, by and through its agents, employees and servants assaulted and battered Nicholas causing certain injuries. Namely, Defendant used excessive force in restraining Nicholas thereby creating an unlawful assault and battery.

25. The above incidents caused Nicholas to incur serious and permanent personal injuries.

26. As a result of Defendant's conduct, Plaintiff has been and may in the future be prevented from attending to those usual and customary wants, duties, toils, labors, occupations and avocations in which Plaintiff previously engaged, thereby foregoing the pleasures and emoluments attendant thereto, all to Plaintiff's great detriment and loss.

27. As a result of the Defendant's conduct, Plaintiff has been and may in the future be required to expend various sums of monies for medical care and treatment in an endeavor to affect a treatment and cure of the aforesaid injuries and such other items of expense which have been incurred or which will be incurred and ascertained in the future, all to Plaintiff's great detriment and loss.

28. As a result of the Defendant's conduct, Plaintiff has suffered severe physical and emotional pain, mental anguish, emotional distress and humiliation and may continue to so suffer for an indefinite time into the future, all to Plaintiff's great detriment and loss.

29. As a result of the Defendant's conduct, Plaintiff has been and may in the future be required to expend various sums of monies for such other items of expense which either have been incurred but have not as yet been documented or which are to be incurred and ascertained in the future, as well as loss of income and earning capacity, and various and sundry other losses and expenses, all to Plaintiff's great detriment and loss.

30. The conduct of the Defendant, as stated herein, was willful, wanton and malicious and in conscious disregard to the rights of the Plaintiff, allowing Plaintiff to recover and receive punitive damages from Defendant.

WHEREFORE, Plaintiffs demand judgment against Defendant for compensatory and punitive damages, together with attorney fees and costs, and pre-and-post judgment interest. Plaintiffs hereby certify pursuant to Local Civil Rule 53.2(3) that the value of Plaintiffs' claim in in excess of \$150,000.00 exclusive of interest and costs.

## **COUNT II NEGLIGENCE**

31. Plaintiffs incorporate the prior paragraphs as if set forth in full herein.

32. The Defendant was negligent, careless and unreasonable in performance of their duties in the following respects:

- a) failure to provide adequate supervision and treatment to Nicholas including, but not limited to, allowing Nicholas to be assaulted and battered by an agent, employee, servant of Defendant;
- b) failure to comply with the needs of Nicholas while he was a resident of Woods;
- c) failure to train their agents/employees the proper techniques and methods to restrain persons such as Nicholas;
- d) failure to have in their employ individuals who possess adequate skill and training to properly interact with and supervise Nicholas;

- e) failure to establish proper protocol to ensure that residents such as Nicholas receive appropriate care and treatment;
- f) restraining Nicholas in an improper manner and/or with excessive force;
- g) restraining Nicholas in a negligent and/or careless manner;
- h) employing an individual(s) who physically assaulted and battered the Plaintiff;
- i) failing to conduct background checks on its employees and/or not conducting the background check in a reasonable manner;
- j) failing to supervise its employees and allowing an assault such as this to occur.

33. As a result of Defendant's negligence and carelessness, Plaintiff has been and may in the future be prevented from attending to those usual and customary wants, duties, toils, labors, occupations and avocations in which Plaintiff previously engaged, thereby foregoing the pleasures and emoluments attendant thereto, all to Plaintiff's great detriment and loss.

34. As a result of the Defendant's negligence and carelessness, Plaintiff has been and may in the future be required to expend various sums of monies for medical care and treatment in an endeavor to affect a treatment and cure of the aforesaid injuries and such other items of expense which have been incurred or which will be incurred and ascertained in the future, all to Plaintiff's great detriment and loss.

35. As a result of the Defendant's negligence and carelessness, Plaintiff has suffered severe physical and emotional pain, mental anguish and humiliation and may continue to so suffer for an indefinite time into the future, all to Plaintiff's great detriment and loss.

36. As a result of the Defendant's negligence and carelessness, Plaintiff has been and may in the future be required to expend various sums of monies for such other items of expense which either have been incurred but have not as yet been documented or which are to be incurred

and ascertained in the future, as well as loss of income and earning capacity, and various and sundry other losses and expenses, all to Plaintiff's great detriment and loss.

37. The conduct of the Defendant, as stated herein, was willful, wanton and malicious and in conscious disregard to the rights of the Plaintiff, allowing Plaintiff to recover and receive punitive damages from Defendant.

WHEREFORE, Plaintiffs demand judgment against Defendant for compensatory and punitive damages, together with attorney fees and costs, and pre-and-post judgment interest. Plaintiffs hereby certify pursuant to Local Civil Rule 53.2(3) that the value of Plaintiffs' claim in in excess of \$150,000.00 exclusive of interest and costs.

**CLAIM FOR RELIEF**

WHEREFORE, Plaintiffs request that judgment be entered against Defendant for damages to be determined at trial and for all other relief as the Court deems just and equitable.

**SHAFFER & GAIER, LLC**

BY: \_\_\_\_\_

MICHAEL D. SHAFFER, ESQUIRE  
Attorney for Plaintiffs

Date: \_\_\_\_\_

3-1-19

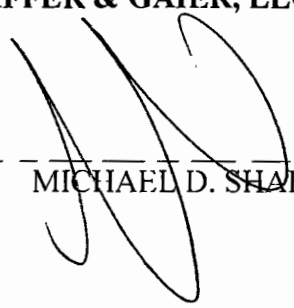
**JURY DEMAND**

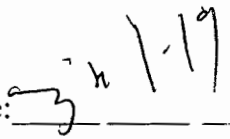
The Plaintiffs hereby demand a trial by jury as to all issues.

**DESIGNATION OF TRIAL COUNSEL**

PLEASE TAKE NOTICE that Michael D. Shaffer, Esquire is hereby designated as trial counsel for this matter.

**SHAFFER & GAIER, LLC**

BY:  \_\_\_\_\_  
MICHAEL D. SHAFFER, ESQUIRE

Date:  \_\_\_\_\_